

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FORI AUTOMATION, INC.,

Plaintiff,

-vs-

Case No. 07-12527  
Hon: AVERN COHN

DURR SYSTEMS, INC.,

Defendant.

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**SCHEDULING ORDER**

This is a patent case. The patent-in-suit is U.S. Patent No. 5,040,303 (the '303 patent). It covers a Toe Apparatus Method And Apparatus for an alignment machine. Defendant is alleged to infringe Claim 13 of the '303 patent by selling adjustment machines embodying the patented invention. Defendant says there are ambiguities in Claim 13 which require interpretation (a Markman proceeding). In order to move the case forward:

1. The parties shall arrange with the Case Manager for a site visit by the Court to enable it to observe the machine in operation.
2. The parties shall schedule an in-court tutorial with the Case Manager.
3. The Markman process shall proceed as follows:
  - a. within twenty (20) days, defendant shall identify the ambiguous words/phrases in Claim 13;
  - b. within twenty (20) days thereafter, plaintiff shall offer its

interpretation of the identified words/phrases;

- c. within ten (10) days thereafter, defendant shall respond to plaintiff's interpretation;
- d. a Markman hearing will be held on Monday, May 05, 2008, at 10:00 am.

4. If either party relies on the prosecution history of the '303 patent, the parties shall lodge with the Court a tabbed and indexed 3-ring binder containing the prosecution history. The parties shall cite to this copy of the prosecution history in their papers.
5. The plaintiff shall promptly lodge with the Court a copy of Claim 13 in the form of Exhibit A attached.
6. The parties' papers relating to claim interpretation shall include a chart of the parties' interpretation of ambiguous words/phrases in non-argumentative form. An example is attached as Exhibit B.

Any objections to this order shall be filed within two (2) business days.

SO ORDERED.

Dated: February 12, 2008

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 12, 2008, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160